

Notice of Allowability

Application No.

10/551,049

Examiner

Michael P. Barker

Applicant(s)

CHIESA ET AL.

Art Unit

1626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Supplemental Amendment, June 12, 2007.
2. ☒ The allowed claim(s) is/are 1-11; 13-16.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some* c) ☐ None of the:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|---|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413), Paper No./Mail Date _____ |
| 3. <input checked="" type="checkbox"/> Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date <u>6/6/07</u> | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____ |

DETAILED ACTION

Applicant added **Claims 15 and 16**. Therefore, **Claims 1-11 and 13-16** are pending in this Application. Furthermore, after the Examiner's Amendment below, **Claims 1-11 and 13-16** are in condition for allowance.

Information Disclosure Statement

The information disclosure statement (IDS) submitted on June 6, 2007 was correctly filed. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the IDS was considered by the Examiner. Please refer to Applicant's copy of PTO-1449, submitted herewith.

Examiner's Amendment

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Joshua Goldberg on July 11, 2007.

The application has been amended as follows:

Claim 13, line 1: Delete the words, "preventing or".

Response to Remarks

Applicant's remarks filed June 6, 2007 are moot in light of the Examiner's Amendment.

Claim 13 is now in condition for allowance. All outstanding rejections and objections are hereby withdrawn.

Reasons for Allowance

Applicant's invention is drawn to cyclic benzimidazoles and a method of using those compounds and compositions. There is no prior art which anticipates or renders Applicant's invention obvious. The closest prior art is Kaminski, et al., "Antiulcer Agents. 6. Analysis of the in Vitro Biochemical and in Vivo Gastric Antisecretory Activity of Substituted Imidazo[1,2-a]pyridines and Related Analogues Using Comparative Molecular Field Analysis and Hypothetical Active Site Lattice Methodologies", J. Med. Chem., Vol. 40, pp. 427-436 (1997). Kaminski, et al. discloses compounds which are structurally similar to the instantly claimed compounds (see Table 1, p. 428). However, none of the compounds recited in Kaminski, et al. meet each and every structural limitation of the claimed invention.

Accordingly, **Claims 1-11 and 13-16** are free of the prior art and ALLOWED.

Telephone Inquiry

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael P. Barker whose telephone number is (571) 272-4341. The examiner can normally be reached on Monday-Friday 8:00 AM- 5:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Joseph K.

Art Unit: 1626

McKane, can be reached at (571) 272-0699. The unofficial fax phone for this group are (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is viable through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Michael P. Barker
Patent Examiner, AU 1626
Technology Center 1600



REBECCA ANDERSON
PRIMARY EXAMINER

(for) Joseph McKane
Supervisory Patent Examiner, AU 1626
Technology Center 1600